

1 **H. B. 4125**

2
3 (By Delegate Manypenny)

4 [Introduced January 14, 2014; referred to the
5 Committee on Political Subdivisions then the Judiciary.]

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10 A BILL to amend and reenact §46-9-525 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §59-1-11 of said
12 code, all relating to providing for the collection of certain
13 fees dedicated to pay civil legal fees for low income persons
14 and for operation of the circuit clerk's office.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §46-9-525 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted; and that §59-1-11 of said code be amended
18 and reenacted, all to read as follows:

19 **CHAPTER 46. UNIFORM COMMERCIAL CODE.**

20 **ARTICLE 9. SECURED TRANSACTIONS; SALES OF ACCOUNTS AND CHATTEL**
21 **PAPER.**

22 **§46-9-525. Fees.**

23 (a) *Initial financing statement or other record: general rule.*

1 -- Except as otherwise provided in subsection (e) of this section,
2 the fee for filing and indexing a record under this part, other
3 than an initial financing statement of the kind described in
4 subsection (b) of this section, is the amount specified in
5 subsection (c) of this section, if applicable, plus:

6 (1) Twenty dollars if the record is communicated in writing
7 and consists of one or two pages; and

8 (2) Twenty dollars if the record is communicated in writing
9 and consists of more than two pages; and

10 (3) Twenty dollars if the record is communicated by another
11 medium authorized by filing-office rule.

12 (b) *Initial financing statement: Public-finance and*
13 *manufactured housing transactions.* -- Except as otherwise provided
14 in subsection (e) of this section, the fee for filing and indexing
15 an initial financing statement of the following kind is the amount
16 specified in subsection (c) of this section, if applicable, plus:

17 (1) Twenty dollars if the financing statement indicates that
18 it is filed in connection with a public-finance transaction;

19 (2) Twenty dollars if the financing statement indicates that
20 it is filed in connection with a manufactured-home transaction.

21 (c) *Number of names.* -- The number of names required to be
22 indexed does not affect the amount of the fee in subsections (a)
23 and (b) of this section.

24 (d) *Response to information request.* -- The fee for responding

1 to a request for information from the filing office, including for
2 issuing a certificate showing whether there is on file any
3 financing statement naming a particular debtor, is:

4 (1) Ten dollars if the request is communicated in writing;

5 (2) Ten dollars if the request is communicated by another
6 medium authorized by filing-office rule; and

7 (3) One dollar per page for each active lien.

8 (e) *Record of mortgage.* -- This section does not require a fee
9 with respect to a record of a mortgage which is effective as a
10 financing statement filed as a fixture filing or as a financing
11 statement covering as-extracted collateral or timber to be cut
12 under section 9-502(c). However, the recording and satisfaction
13 fees that otherwise would be applicable to the record of the
14 mortgage apply.

15 (f) *Deposit of funds.* -- All fees and moneys collected by the
16 Secretary of State pursuant to the provisions of this article shall
17 be deposited by the Secretary of State as follows: One-half shall
18 be deposited in the special revenue account created by section ~~59-~~
19 ~~1-59~~ 59-1-10(c)(4)(B) to provide civil legal services for low
20 income persons, one-fourth shall be deposited in the state fund,
21 general revenue, and one-fourth shall be deposited in the service
22 fees and collections account established by section 59-1-2 for the
23 operation of the office of the Secretary of State. Any balance
24 remaining on June 30, 2001, in the existing special revenue account

1 deposited in the special revenue account created by paragraph (B),
2 subdivision (4), subsection (c), section ten of this article to
3 provide civil legal services for low income persons, and \$20
4 deposited in the special revenue account created in section six
5 hundred three, article twenty-six, chapter forty-eight of this code
6 to provide legal services for domestic violence victims and \$10
7 shall be deposited in the county General Revenue Fund and dedicated
8 to the operation of the circuit clerk's office;

9 (2) For instituting an action for medical professional
10 liability, \$280, of which \$10 shall be deposited in the Courthouse
11 Facilities Improvement Fund created by section six, article twenty-
12 six, chapter twenty-nine of this code;

13 (3) Beginning on and after July 1, 1999, for instituting an
14 action for divorce, separate maintenance or annulment, \$135;

15 (4) For petitioning for the modification of an order involving
16 child custody, child visitation, child support or spousal support,
17 \$85; ~~and~~

18 (5) For petitioning for an expedited modification of a child
19 support order, \$35; and

20 (6) For filing any pleading that includes one or more
21 counterclaim, cross complaint, or third party or intervenor
22 complaint, or for filing a motion or request that a matter be
23 designated as a complex litigation case, \$200, which shall be
24 deposited in the special revenue account created by paragraph (B),

1 subdivision (4), subsection (c), section ten of this article to
2 provide civil legal services for low-income persons. However, this
3 subdivision does not apply to cases involving marital divorce.

4 (b) In addition to the foregoing fees, the following fees
5 shall be charged and collected:

6 (1) For preparing an abstract of judgment, \$5;

7 (2) For a transcript, copy or paper made by the clerk for use
8 in any other court or otherwise to go out of the office, for each
9 page, \$1;

10 (3) For issuing a suggestion and serving notice to the debtor
11 by certified mail, \$25;

12 (4) For issuing an execution, \$25;

13 (5) For issuing or renewing a suggestee execution and serving
14 notice to the debtor by certified mail, \$25;

15 (6) For vacation or modification of a suggestee execution, \$1;

16 (7) For docketing and issuing an execution on a transcript of
17 judgment from magistrate court, \$3;

18 (8) For arranging the papers in a certified question, writ of
19 error, appeal or removal to any other court, \$10, of which \$5 shall
20 be deposited in the Courthouse Facilities Improvement Fund created
21 by section six, article twenty-six, chapter twenty-nine of this
22 code;

23 (9) For each subpoena, on the part of either plaintiff or
24 defendant, to be paid by the party requesting the same, 50¢;

1 (10) For additional service, plaintiff or appellant, where any
2 case remains on the docket longer than three years, for each
3 additional year or part year, \$20; and

4 (11) For administering funds deposited into a federally
5 insured interest-bearing account or interest-bearing instrument
6 pursuant to a court order, \$50, to be collected from the party
7 making the deposit. A fee collected pursuant to this subdivision
8 shall be paid into the general county fund.

9 (c) In addition to the foregoing fees, a fee for the actual
10 amount of the postage and express may be charged and collected for
11 sending decrees, orders or records that have not been ordered by
12 the court to be sent by mail or express.

13 (d) The clerk shall tax the following fees for services in a
14 criminal case against a defendant convicted in such court:

15 (1) In the case of a misdemeanor, \$85; and

16 (2) In the case of a felony, \$105, of which \$10 shall be
17 deposited in the Courthouse Facilities Improvement Fund created by
18 section six, article twenty-six, chapter twenty-nine of this code.

19 (e) The clerk of a circuit court shall charge and collect a
20 fee of \$25 per bond for services rendered by the clerk for
21 processing of criminal bonds and the fee shall be paid at the time
22 of issuance by the person or entity set forth below:

23 (1) For cash bonds, the fee shall be paid by the person
24 tendering cash as bond;

1 (2) For recognizance bonds secured by real estate, the fee
2 shall be paid by the owner of the real estate serving as surety;

3 (3) For recognizance bonds secured by a surety company, the
4 fee shall be paid by the surety company;

5 (4) For ten-percent recognizance bonds with surety, the fee
6 shall be paid by the person serving as surety; and

7 (5) For ten-percent recognizance bonds without surety, the fee
8 shall be paid by the person tendering ten percent of the bail
9 amount.

10 In instances in which the total of the bond is posted by more
11 than one bond instrument, the above fee shall be collected at the
12 time of issuance of each bond instrument processed by the clerk and
13 all fees collected pursuant to this subsection shall be deposited
14 in the Courthouse Facilities Improvement Fund created by section
15 six, article twenty-six, chapter twenty-nine of this code. Nothing
16 in this subsection authorizes the clerk to collect the above fee
17 from any person for the processing of a personal recognizance bond.

18 (f) The clerk of a circuit court shall charge and collect a
19 fee of \$10 for services rendered by the clerk for processing of
20 bailpiece and the fee shall be paid by the surety at the time of
21 issuance. All fees collected pursuant to this subsection shall be
22 deposited in the Courthouse Facilities Improvement Fund created by
23 section six, article twenty-six, chapter twenty-nine of this code.

24 (g) No clerk is required to handle or accept for disbursement

1 any fees, cost or amounts of any other officer or party not payable
2 into the county treasury except on written order of the court or in
3 compliance with the provisions of law governing such fees, costs or
4 accounts.

NOTE: The purpose of this bill is to provide for certain fees to be charged by the clerk of the circuit court and the disposition of those fees to pay for civil legal fees for low income persons and the operation of the circuit clerk's office. The bill corrects a code reference in section 46-9-525.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.